

REMARKS/ARGUMENTS

Claims 3-12 and 15-21 are pending in the present application. Claims 18-21 are independent claims. Claims 18 and 19 are amended. Claims 1, 2, 13, and 14 are canceled. In view of the following remarks, reconsideration of the outstanding rejections is respectfully requested.

It is respectfully submitted that minor clarifying amendments have been made to claims 18 and 19, which do not substantively change the scope of these claims. Accordingly, Applicant submits that these amendments do not give rise to any estoppel with respect to claims 18 and 19.

Rejections Under 35 U.S.C. § 102

Claims 1-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,311,154 to Gersho et al. (hereafter "Gersho"). This rejection is respectfully traversed.

Initially, Applicant points out that this rejection, insofar as it pertains to claims 1, 2, 13, and 14, has been rendered moot by the cancellation of those claims.

Independent claims 19-21 recite comparing a coding distortion involved in encoding in an excitation mode with a threshold value. Independent claim 18 recites suppressing the selection of an excitation mode that gives a compared result of a coding distortion being greater than a threshold value. Applicant respectfully submits that these features are not taught by Gersho.

In the rejection, the Examiner merely repeats back portions of the actual language recited in the claims, while citing broad passages of Gersho allegedly teaching the relevant features. The

Examiner provides no specific explanation in the rejection as to how he is interpreting the claimed language or cited passages in coming up with this rejection. Thus, Applicant must make various presumptions regarding the Examiner's reasoning in order to respond to this rejection.

In page 3 of the Office Action, the Examiner cites col. 12, lines 1-15 of Gersho as teaching, *inter alia*, the "outputting of coding distortions involved in the encoding." The Examiner further asserts that the "comparing of at least one of these coding distortions...with one of three threshold values," citing col. 12, line 16 – col. 13, line 52. Applicant respectfully disagrees.

Applicant points out that the cited passage of col. 12, lines 1-15, refers to the searching of a fixed codebook of pulse patterns to find the most useful pattern for encoding speech excitation in a "window." According to this passage, the most useful pattern is chosen as the one associated with the lowest distortion (col. 12, lines 11-15). Applicant respectfully submits that this cited passage provides no teaching regarding a threshold.

Furthermore, Applicant submits that the cited passage of col. 12, line 16 – col. 13, line 52 also fails to provide any teaching of a threshold for comparison **with a distortion**. This passage does discuss the method of Fig. 7. Specifically, Gersho teaches that this method:

"...computes the energy profile for the **LP residual**..., computes window positions using previous frame windows and pitch and computes the energy within windows, E , to find the maximum value, E_p , that gives the best jitter[, and] finds the window positions which capture the most energy of the **LP residual**, E_m , for the reset frame case." (col. 13, lines 2-12; emphasis added)

Gersho further teaches that the method “compares E_p and E_m , and declares a reset frame if $E_m > E_p$, otherwise the method uses the jitter frame” (col. 13, lines 28-30). Applicant presumes that the Examiner is interpreting this comparison between E_p and E_m as a comparison between a distortion and a threshold. However, Gersho discloses that both of the values E_p and E_m relate to the energy of the **linear prediction (LP) residual** -- they are **not** related to the **distortion** involved in encoding an excitation. Gersho expressly teaches that “linear prediction is performed to generate a residual signal” (col. 2, lines 19-21). Accordingly, it is clear that neither E_p nor E_m represents the distortion, which is described in col. 12, lines 1-15 of Gersho and relied upon by the Examiner.

As set forth in MPEP § 2131,

“‘A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ *Verdegaal Bros. V. Union Oil Co. Of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ‘The identical invention must be shown in as complete detail as is contained in the ... claims.’ *Richardson v. Suzuki Motor Co.*, 868 F2d 1226, 1236, 9 USQP2d 1913, 1920 (Fed. Cir. 1989).”

It is respectfully submitted that Gersho fails to teach comparing a coding distortion involved in encoding in an excitation mode with a threshold value, as required by the independent claims 19-21. As such, Applicant submits that Gersho fails to teach suppressing selection of an excitation mode that gives any particular compared result with respect to a coding distortion and threshold value, as required by independent claim 18.

At least for these reasons, Applicant respectfully submits that claims 18-21 are allowable. Accordingly, Applicant respectfully submits that claims 3-12 and 15-17 are allowable at least by virtue of their dependency on allowable claims.

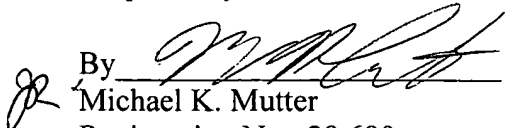
Conclusion

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above remarks, Applicant believes the pending application is in condition for allowance. However, should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in order to expedite prosecution.

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Respectfully submitted,

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